

The applicant and the undersigned wish to thank Examiner Taylor for the courtesies extended during the interview of June 1, 1989. Independent claims 11 and 19 have been amended above in the manner discussed during the interview to modify the preamble and add functional language so as to set forth the intended use and function of the tube to thereby more clearly distinguish the invention from Shaw.

More particularly, claims 11 and 19 have been amended to recite that the inner portion of the coextruded tube is formed from a highly lubricous polymeric material which provides a permanently lubricated inner surface that has a low coefficient of friction so that a cable or the like can be slidably received therein with a relatively small amount of force. Further, these claims have been amended to recite that the outer portion of the coextruded tube is formed from a high tensile strength polymeric material to maintain the structural integrity of the tube during placement and to provide a protective housing for the cable or the like. Claims 12-18 and 20 depend from amended claims 11 and 19 and therefore these claims are limited in a manner analogous to claims 11 and 19.

In the Official Action, claims 11, 12, and 20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. With respect to claim 11, this claim has been amended above so as to incorporate the portion inadvertently omitted in the Amendment filed October 13, 1988. In addition,

"form" has been changed to "from" as suggested by the Examiner. With regard to claims 12 and 20, the Examiner indicated that these claims were improper Markush claims. In particular, the Examiner indicated that a Markush type claim could only be employed where there is no commonly accepted generic expression which is commensurate in scope with the field which applicant desires to cover. In this regard, applicant respectfully submits that the exemplary materials set forth in claims 12 and 20 are preferred materials in accordance with the present invention. Applicant is not aware of a commonly accepted generic expression which covers the specific materials listed in claims 12 and 20. Because no generic expression covers the listed materials, a "Markush type claim" was used. If, however, the Examiner is aware of a generic expression which covers the identified materials, it is respectfully requested that the same be proposed to the undersigned so that an appropriate amendment of these claims can be made.

In view of the foregoing, it is respectfully requested that the rejection under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 11-14, 19, and 20 were rejected under 35 U.S.C. 103 as being unpatentable over Shaw. Applicant earnestly traverses this rejection.

As noted above, independent claims 11 and 19 have been amended so as to more clearly recite the intended use of the

present invention, that is slidably receiving and providing a housing for a cable, and further to recite that the purpose of providing a highly lubricous polymeric material is to provide a permanently lubricated inner surface of the tube which has a low coefficient of friction whereby low friction placement of a cable is possible. It is respectfully submitted that Shaw does not teach or suggest a coextruded plastic tube as recited in claim 11 or a prelubricated innerduct as recited in claim 19.

Indeed, Shaw teaches a composite pipe which is specifically designed for handling destructive materials under pressure and vacuum conditions. Shaw teaches that in order to convey the corrosive and abrasive materials, a tubular liner formed from, for example, extruded Teflon must be provided. Further, Shaw teaches that in order to withstand the pressure and vacuum conditions of the conveyed material, a fiberglass and resin layer must be provided to maintain the structural integrity of the tube. However, Shaw found that the material suitable for lining his tube and receiving the corrosive materials cannot be bonded to the outer, structural integrity maintaining, fiberglass layer. In order to overcome his inability to bond the inner layer and outermost layer together, Shaw teaches that it is necessary to provide a fiber fabric layer between the extruded Teflon and the fiberglass and resin layer.

Thus, Shaw specifically teaches a pipe which is formed from a liner tube portion, a fiber fabric and a fiberglass and

resin layer. Further, because his inner liner layer and his outer fiberglass layer cannot be bonded together, the fiber fabric provided in accordance with Shaw is a critical feature of his composite pipe. As the fiber fabric is an essential part of Shaw's invention and is necessary to achieve the objects of Shaw, it is respectfully submitted that Shaw does not teach or suggest a coextruded plastic tube consisting essentially of the inner portion and outer portion of the present invention, much less a tube provided for the purpose and having the functions recited in applicant's claims. Furthermore, the ordinary artisan would not find the invention obvious in view of Shaw because it would not be obvious to employ Shaw for anything other than conducting a corrosive material and it would certainly not be obvious to omit the fiber fabric of Shaw which Shaw teaches is a critical component of his structure.

It is therefore respectfully submitted that the invention as recited in claims 11 and 19 is not anticipated by nor obvious in view of Shaw.

Claims 15 and 16 were rejected under 35 U.S.C. 103 as being unpatentable over Shaw in view of Redding et al. Further, claims 17 and 18 were rejected under 35 U.S.C. 103 as being unpatentable over Shaw in view of Kleykamp. Claims 15-18 are submitted to be allowable for the reasons advanced above with respect to claims 11 and 19. Indeed, it is respectfully submitted that Shaw does not teach or suggest a structure

satisfying the basic structural and functional limitations recited in independent claims 11 and 19. Therefore, even if Shaw could be modified by the secondary references as suggested by the Examiner, the present invention as claimed would still not be anticipated nor obvious.

It is further respectfully submitted that, for the reasons set forth in applicant's Amendment filed October 13, 1988 the ordinary artisan considering the references to Shaw, Redding and Kleykamp would not be taught thereby that it would be advantageous or desirable to provide the structure recited in applicant's independent or dependent claims. Furthermore, the ordinary artisan simply concerned with improving the structure of Shaw would not look to the secondary references as he would not be taught by any of the references that there is a deficiency in Shaw, that Shaw could or should be employed for slidably receiving cables as required by applicant's claims, or that any deficiency in Shaw could or should be overcome by providing ribs or undulations.


It is therefore respectfully submitted that the present invention has claimed in claims 11-20 is not anticipated by nor obvious in view of Shaw taken alone or combination with Redding or Kleykamp.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and a Notice to that effect is earnestly

SHOFFNER -- Appln. No. 07/021,237

solicited. If, however, the Examiner has any further questions or comments regarding this case, it is respectfully requested that the undersigned be telephoned so that the remaining matters can be resolved and this case can be passed to issue.

Respectfully submitted,  
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